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om>

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To: Michelle Lauterback/R1/USEPA/US@EPA, Dave
Newton/R1/USEPA/US@EPA
cc: tom mcnulty <tmcnulty@mcnultyrealestate.com>
Subject: Property Line

David, Michelle

CAITO Corporation has completed a comprehensive analysis of property line placement for the Berkeley Commons and River Run Developments that have been the subject of our delisting conversation. I am attaching a jpeg file from CAITO that presents the current understanding of surveyed property lines in relation to the wetland, the 68' contour and the wetland buffer.

Our analysis indicates that the "River Run" property line bordering the wetland tracks the 68' contour line. Because the "Berkeley Commons" parcel was surveyed at a different time, by a different company using different methodology, the placement of the property line relative to the wetland is different than that for River Run and follows a line that is generally lower than the 68' contour.

Tom McNulty is forwarding me copies of three deeds that describe the subject parcels as was requested in our last meeting and I will send these to you probably next week after I receive them. The deed for the Berkeley Commons piece states the "high water mark" as the basis for the wetland boundary for that parcel.

In our last meeting you articulated your preference for the 68' contour line as a delisting boundary due to its correlation to a significant storm event (actually two sequential 10 yr storms) and the resulting high water mark. Although we understand your derivation of the 68' contour, we still do not fully appreciate its unique appropriateness as a delisting boundary. While understanding your scenario that some future flood event may deposit wetland sediments on some portion above the general high water mark, we do not feel that the contaminant and risk consequences warrant such a conservative placement of the delisting boundary. There is a low likelihood that any significant "Superfund" contamination will be redeposited in a future storm event at levels that exceed current stormwater depositions from Mendon Road which has impacts on but is not the basis for the partial delisting of this property from OU-2. Further, the steep topography of the sliver bordering the wetland and the existence of the state wetland buffer provide adequate institutional and natural impediments to potential exposure from some future deposition of sediments, the historical deposition of which has not been shown to be of any consequence.

Based on this environmental premise, we are therefore proposing that the partial delisting boundary for both parcels track language described in the deeds and surveyed conveyances which includes the "high water" designation as surveyed for the Berkeley Commons parcel. We feel that this is protective and reasonable.

We request a timely response to this proposal as this remains the only outstanding technical matter to be resolved before moving forward with the FR notice.

p.s. please make note of **new phone number**

Regards

Gregory A. Roscoe, LLC
Environmental Consulting and Dispute Resolution
Falmouth, ME 04105

Superfund Records Center

SITE: Berkeley Commons

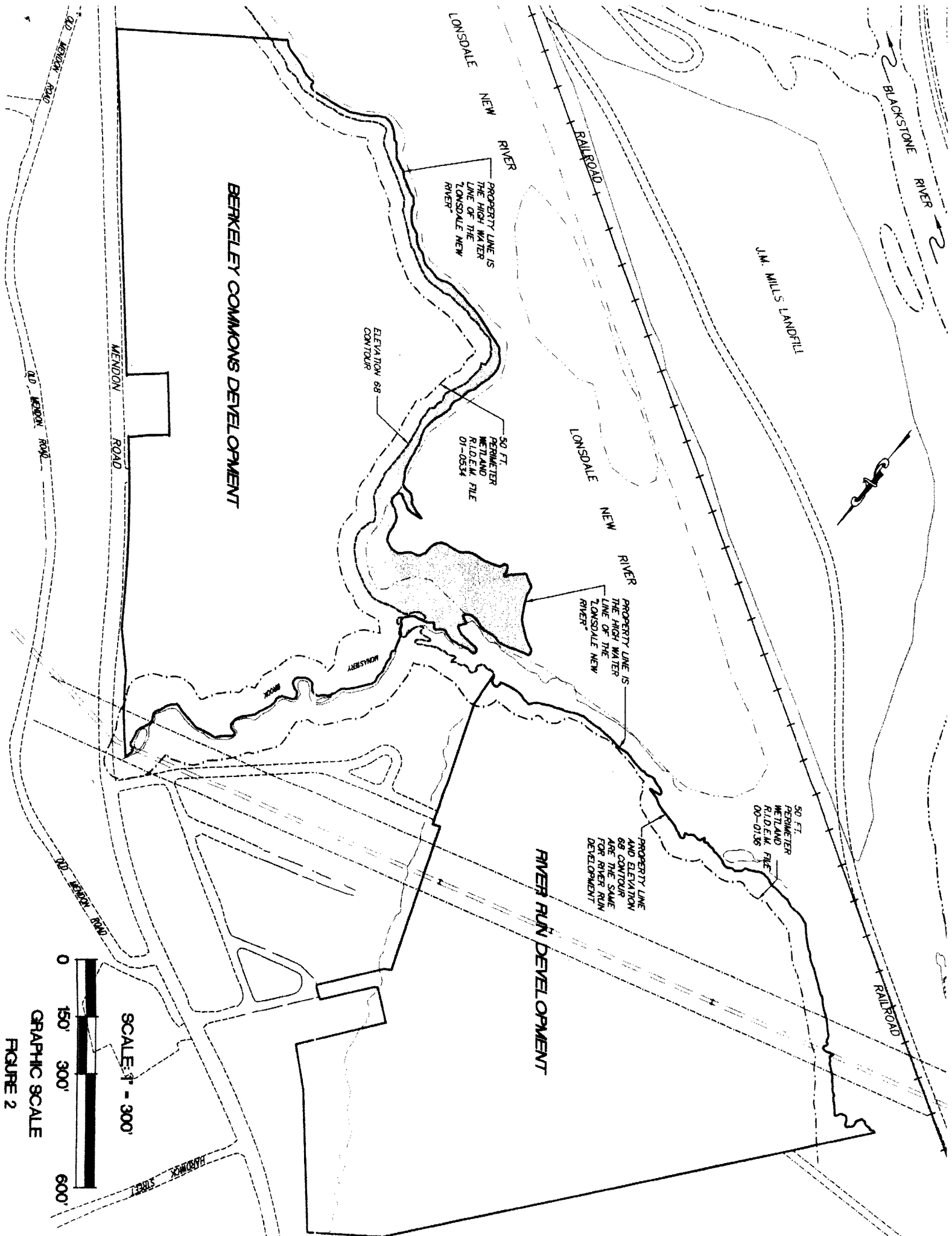
BREAK: 1.3

OTHER: OU 02

STATUS: 2-4-04



SDMS DocID 000214637



SCALE: 1" = 300'

GRAPHIC SCALE

FIGURE 2